

REMARKS

This paper is in response to the Office Action mailed March 29, 2005. Claims 1-40 are pending in the application. In the Office Action, Claims 1-7, 9-14, and 16 were rejected under 35 U.S.C. § 102(b). Claims 8, 15, 17-21, 28, 31-36, 38, and 39 were rejected under 35 U.S.C. § 103(a). Claims 22-27, 29, 30, 37, and 40 were objected to as being dependent upon a rejected base claim, but were indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1, 3, 10, 17, 18, and 28 are hereby amended; Claims 26, 36, and 37 canceled; and Claims 41-46 added by way of this amendment and response.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1-7, 9-14, and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Design Patent No. 308,422, issued Sasamura (hereinafter "Sasamura"). Applicants respectfully disagree.

It is a well-settled axiom of patent law that in order to anticipate a claim, a reference must teach each and every element of that claim. Each and every element of a claim must either be expressly or inherently described in a prior art reference.¹ Thus, if every element of the claim is not described or suggested by the reference, the claim cannot be rejected under 35 U.S.C. § 102(b) as being anticipated by the prior art. Further, the elements described or suggested in the reference must be arranged as required by the claim, although the terminology need not be identical.²

Applicants submit that Sasamura fails to describe or suggest each and every element of the foregoing claims. Thus, applicants respectfully submit that the rejection of Claims 1-7, 9-14,

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

² *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

and 16 under 35 U.S.C. § 102(b) is improper. More specifically, independent Claim 1 recites a headlight housing having "a top surface of a substantially constant width extending aft of a top edge of the front section to a back surface of the headlight housing, wherein the top surface is adapted to be oriented substantially parallel with the ground surface when the headlight housing is mounted upon the vehicle in an illuminating position." Referring to FIGURE 3 of Sasamura, Sasamura teaches a top surface which is rounded and generally inclined relative to the ground surface. Moreover the top surface of the Sasamura headlight housing bows outward such that the top surface is curved, gradually transitioning from a horizontally oriented leading edge to the vertically oriented back surface. Thus, the top surface of Sasamura is generally inclined relative to the ground surface. This is in stark contrast to applicants' claimed embodiment, which has a top surface which is "oriented substantially parallel with the ground surface" from "a top edge of the front section to a back surface." Inasmuch as Sasamura fails to describe or suggest each and every element of Claim 1, applicants respectfully submit that the rejection of independent Claim 1, and Claims 2-7 and 9 which depend on Claim 1, under 35 U.S.C. § 102(b), is improper and should be withdrawn.

Similarly, Claim 10 recites a headlight housing having "a front section adapted to emit light from a headlight" and "a substantially planar top surface extending aft of a top edge of the front section to a back surface of the headlight housing, wherein the top surface is located substantially perpendicular to a plane containing the front section." Referring to FIGURE 3 of Sasamura, Sasamura teaches a top surface which is rounded and generally inclined relative to the front section. Moreover the top surface of the Sasamura headlight housing bows outward such that the top surface is curved, gradually transitioning from a horizontally oriented leading edge to the vertically oriented back surface. Thus, the top surface of Sasamura is neither substantially planar nor generally inclined relative to the front section of the headlight housing. This is in

stark contrast to applicants' claimed embodiment, which has "a substantially planar top surface extending aft of a top edge of the front section to a back surface of the headlight housing" that is "located substantially perpendicular to a plane containing the front section." Inasmuch as Sasamura fails to describe or suggest each and every element of Claim 10, applicants respectfully submit that the rejection of independent Claim 10, and Claims 11-14 and 16 which depend on Claim 10, under 35 U.S.C. § 102(b), is improper and should be withdrawn.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 8, 15, and 17

Claims 8, 15, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sasamura. Applicants respectfully disagree.

As is well known, the Office Action bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). For the same reasons discussed above for the rejections of Claims 1 and 10 under 35 U.S.C. § 102(b), applicants assert that Sasamura fails to teach or suggest each and every element of Claims 8 and 15 which depend respectively on Claims 1 and 10. Accordingly, applicants submit that Sasamura fails to teach or suggest all the claim limitations of Claims 8 and 15. Accordingly, applicants respectfully request that the 35 U.S.C. § 103(a) rejection of Claims 8 and 15 be withdrawn.

With regard to Claim 17, Claim 17 recites a headlight housing having "a bottom surface having a substantially constant width, the bottom surface bowed inward." Sasamura teaches exactly the opposite. More specifically, referring to FIGURE 3 of Sasamura, the bottom surface of the headlight housing is bowed *outward*, not *inward* as recited in applicants' claimed embodiment. For at least this reason, applicants submit that Sasamura fails to teach or suggest

each and every element of Claim 17, and thus, the rejection of Claim 17 under 35 U.S.C. § 103(a) should be withdrawn.

Claims 18-21

Claims 18-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,797,792, issued to Oen (hereinafter "Oen"). Applicants respectfully disagree.

However, to expedite the allowance of the application, Claim 18 has been amended to include the limitations recited in Claim 26, which the Examiner has indicated is allowable. Accordingly, applicants respectfully request the withdraw of the 35 U.S.C. § 103(a) rejection of amended Claim 18, and Claims 19-21 which depend on Claim 18.

Claims 28, 31-36, 38, and 39

Claims 28, 31-36, 38, and 39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Oen. Applicants respectfully disagree.

However, to expedite the allowance of the application, Claim 28 has been amended to include the limitations recited in Claim 37, which the Examiner has indicated is allowable. Accordingly, applicants respectfully request the withdraw of the 35 U.S.C. § 103(a) rejection of amended Claim 28, and Claims 31-36, 38, and 39 which depend on Claim 28.

New Claims 41-46

New Claims 41-46 have been added to further point out and distinctly claim the novel aspects of the claimed embodiments of the present invention. Applicants submit that the prior art, alone or in combination, does not teach or suggest applicants' claimed embodiments of the present invention as recited in Claims 41-46. Therefore, applicants submit that new Claims 41-46 are allowable over the prior art.

Applicants note that new Claim 41 is Claim 22 rewritten in independent form including all of the limitations of the base claim and any intervening claims as indicated as allowable in the

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100

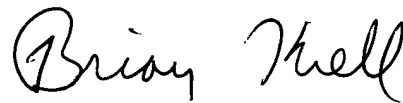
Office Action. Similarly, Claim 42 is Claim 24, Claim 43 is Claim 25, Claim 44 is Claim 27, Claim 45 is Claim 29, and Claim 46 is Claim 40, rewritten in independent form including all of the limitations of the base claim and any intervening claims as indicated as allowable in the Office Action.

CONCLUSION

In view of the foregoing amendments and remarks, applicants respectfully submit that the present application is in condition for allowance. Reconsideration and reexamination of the application, as amended, and allowance of the claims at an early date is solicited. If the Examiner has any questions or comments concerning this matter, the Examiner is invited to contact applicants' undersigned attorney at the number provided below.

Respectfully submitted,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



Brian D. Krell
Registration No. 51,899
Direct Dial No. 206.695.1638

I hereby certify that this correspondence is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date.

Date: _____

BDK:tmm

LAW OFFICES OF
CHRISTENSEN O'CONNOR JOHNSON KINDNESS^{PLLC}
1420 Fifth Avenue
Suite 2800
Seattle, Washington 98101
206.682.8100